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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,315

06/02/2006

Ilkka Limma

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EXAMINER

JANG, CHRISTIAN YONGKYUN

ART UNIT

PAPER NUMBER

3735

NOTIFICATION DATE

DELIVERY MODE

08/03/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail@gziplaw.com  
gziplaw@gmail.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,315	<b>Applicant(s)</b> LIMMA ET AL.	
	<b>Examiner</b> CHRISTIAN JANG	<b>Art Unit</b> 3735	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 June 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 37-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 37-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/21/11 has been entered.

### ***Claim Objections***

1. Claims 39 and 50 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 37-40, 42-51, and 53-60 rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (US 2005/0288154) in view of Kinnunen et al. (US 2001/0023320).

4. As to claims 37, 39, 49, and 50, Lee teaches a method and corresponding device for comparing a previously recorded activity to an ongoing activity ([0051], [0052] - tracking performance characteristics to compare current values with previous values) using a measurement device (10) by performing the steps of loading previously recorded measurement data of a virtual friend relating to a previous activity (claims 15 and 16 - the "performance profile" of claim 1 being the measurement data of a virtual friend), the data comprising a plurality of consecutive measurement points (Fig. 6 - 220, [0053] - information relating to speed, distance, time for certain intervals or entire session) on a route ([0064] - device allows for storing locations to be able to store a starting/finishing locations and allow the user to navigate back to the same location to train along the same route, [0007] - talks of the difficulty of recalling exact route in prior arts, which this invention solves), each set including a time stamp ([0016], [0065]), GPS position ([0014]), and altitude measurements ([0046]), comparing, during an ongoing activity, the measurement data with current measurements (250, [0055] - comparing goal information with performance information), providing a user with a feedback in response (260, [0055] - communicating performance info versus goal info) by continuously measuring the ongoing activity (230 - monitoring performance) and providing feedback at the same time (260, [0058] - instructing user to modify/maintain performance) and indicating how much the user has fallen behind with the previously

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recorded measurement ([0055] - communicating performance information versus goal information). Lee further teaches input means ([0013] - user interface or memory element data interface), data processing unit ([0013] - processor) and feedback means (80 - audio component, 58 - display).

Lee fails to teach that the recorded data set includes a heart rate measurement. However, it is noted that Lee teaches a personal training device in assisting a user in reaching exercise performance goals. In addition, Lee also teaches the monitoring of calorie expenditure based on speed and body weight, while optionally considering distance and change in elevation ([0051]). It is well known that such metabolic parameters can be more accurately calculated by accounting for heart rate parameters. Kinnunen teaches a device and method for utilizing heart rate to calculate an assessment of a person's energy consumption during exercise as well as the person's physical performance parameters (Abs; [0013]). As such, it would have been obvious to one of ordinary skill in the art to modify Lee with Kinnunen to monitor heart rate measurements to more accurately model the user performance.

5. As to claim 38, Lee teaches the data as the user's own previous measurement data or someone else's (claims 15 and 16).

6. As to claims 40 and 51, Lee teaches comparing corresponding measurement points ([0070] - in an example, Lee shows how a user training for a triathlon would set different intervals for three categories - swimming, bicycling, and running - so that the comparison could be done in these interval goals).

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7. As to claims 42-44 and 53-55, Lee teaches a predetermined limit for providing user with feedback and providing feedback only when the limit is exceeded or gone under ([0058] - audio messages such as “you are fifty feet behind schedule” which can inherently only be provided when the user has crossed the limit of fifty feet).
8. As to claims 45 and 56, Lee teaches feedback via sound ([0058] - audio).
9. As to claims 46 and 57, Lee teaches feedback via display ([0058] - progress bars 150).
10. As to claims 47 and 58, Lee teaches that the display is integrated to the measurement device (Fig. 1 - 50).
11. As to claims 48 and 59, Lee teaches the display is an external device connected to the measurement device (Fig. 1 - 50 - displays are inherently external to allow for viewing by the user)
12. As to claim 60, Lee teaches that the device is hand-held ([0049]).
13. Claims 41 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (US 2005/0288154) and Kinnunen et al. (US 2001/0023320), and further over Kaufman (US 2003/0171189).
14. As to claims 41 and 52, Lee teaches the comparison of elapsed time, speed, and distance ([0045]). Lee does not teach the comparison of heart rate. Kaufman, in an exercise monitoring device wherein performances are monitored in real time and compared to goals/benchmarks and feedback given to motivate the user ([0002]) teaches that heart rate is monitored to motivate the user to keep the rate within a certain

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target range or to avoid a dangerous condition ([0068]). As such, it would have been obvious to modify Lee with Kaufman to monitor heart rate in addition to other exercise parameters to monitor progress in additional parameters.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTIAN JANG whose telephone number is (571)270-3820. The examiner can normally be reached on Mon-Friday (9-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CJ  
/C. J./  
Examiner, Art Unit 3735

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7/25/11

/Patricia C. Mallari/

Primary Examiner, Art Unit 3735